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/Nicole Pannoni/

Nicole Pannoni

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Bart Alan Meltzer et al.

Application No.: 09/173,858

Confirmation No.: 4734

Filed: 16 October 1998

Title: Documents for Commerce in Trading
Partner Networks and Interface
Definitions Based on the Documents

Group Art Unit: 2178

Examiner: Huynh, Cong Lac T.

CUSTOMER NO.: 22470

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INTERVIEW SUMMARY

Madam:

Applicants very much appreciate the time that Examiner Huynh allowed for an interview on Wednesday, October 22, 2008, beginning about 10 a.m.

Summary of Interview

The principal topic of discussion was evidence provided in declarations and corroborating documentation that was not mentioned in the Examiner's Office Action dated October 9, 2008, especially pages 18-21. In particular, we focused on Exhibit G, the imdesc.xml code and paragraphs of the declarations that describe actual reduction to practice of the claimed subject matter. Our position was that Exhibit G, by itself, was adequate evidence of actual reduction to practice to remove McKendrick's brief article as a reference. The Examiner indicated that the data structure was not proof by itself of actual reduction to practice. We countered that Exhibit G defined an elegant, short interface specification data structure that should not need any testing to be logically

proven to work for its intended purpose. We confirmed that the Examiner was familiar with reading source code and asked her to give us any reason, to point to any line in the data structure that should require testing. Her general comment was that source code often needs debugging, but she did not have any criticism of the source code in Exhibit G. Moreover, we pointed to the well corroborated paragraphs of declaration testimony that described the circumstances of actual reduction to practice, gave a date and affirmed that Exhibit G was tested sufficiently for the declarants to understand that it would work for its intended purpose. To our surprise, the Examiner asked why she should ever believe any declaration. She had not particular criticism of our declarations, just a reluctance ever to give any evidentiary weight to any declaration, even well-corroborated, credible declarations such as the ones that we presented. She suggested that we appeal and ask the Board to weigh the evidence, instead of asking her to further review and weigh the evidence.

No agreement was reached.

CONCLUSION

Applicants respectfully submit that the pending claims are now in condition for allowance and thereby solicit acceptance of the claims as now stated.

Applicants would welcome an interview, if the Examiner is so inclined. The undersigned can ordinarily be reached at his office at (650) 712-0340 from 8:30 a.m. to 5:30 p.m. PST, Monday through Friday, and can be reached at his cell phone at (415) 902-6112 most other times.

Fee Authorization. The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 50-0869 (OIN 1004-1).

Dated: December 17, 2008

Respectfully submitted,
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